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13 As an individual and on behalf of all others similarly situated

14 **UNITED STATES DISTRICT COURT**

15 **EASTERN DISTRICT OF CALIFORNIA**

16 JOSUE PALMA, as an individual on
17 behalf of himself and on behalf of all
18 others similarly situated,

19 Plaintiff,

20 v.

21 TK&K SERVICES, L.L.C., a
22 Georgia limited liability company,

23 Defendant.

Case No.: 1:23-cv-00434-JLT-CDB

**FIRST AMENDED CLASS ACTION
COMPLAINT FOR:**

1. **Recovery of Unpaid Minimum Wages and Liquidated Damages**
2. **Failure to Furnish Accurate Itemized Wage Statements**
3. **Failure to Timely Pay All Wages Due Upon Separation of Employment**
4. **Failure to Reimburse Business Expenses**
5. **Violations of the Private Attorneys General Act**
6. **Unfair Competition**

DEMAND FOR JURY TRIAL

1 Plaintiff, JOSUE PALMA (“PLAINTIFF”), an individual on behalf of himself
2 and all other similarly situated Class Members (as defined below), and Aggrieved
3 Employees (defined below), hereby files this First Amended Complaint against
4 Defendant TK&K SERVICES, L.L.C. (“DEFENDANT”). PLAINTIFF is informed
5 and believes and thereon alleges as follows:

6 **JURISDICTION AND VENUE**

7 1. DEFENDANT removed this action to this Court from the Superior Court
8 of California, County of Los Angeles, on November 18, 2022, alleging that this Court
9 has subject matter jurisdiction based on 28 U.S.C. sections 1331, 1332, 1367, 1441,
10 1446, 1453, 29 U.S.C §§ 185 *et seq.*, 29 U.S.C. §§ 151-169, and 29 U.S.C. § 201, *et*
11 *seq.* See ECF No. 1.

12 **THE PARTIES**

13 2. PLAINTIFF is, and at all relevant times, was an individual domiciled in
14 the State of California and a citizen of the State of California. PLAINTIFF was
15 employed by DEFENDANT in the State of California as a non-exempt employee
16 from in or around April 2019 through the present.

17 3. PLAINTIFF worked for DEFENDANT as a refueler, driver, fuel
18 distribution systems operator and/or similar title(s) out of DEFENDANT’S facilities
19 located on Edwards Air Force Base in Rosamond, California.

20 4. DEFENDANT is a Georgia limited liability company that, at all relevant
21 times, were authorized to do business within the State of California and are doing
22 business in the State of California.

23 5. DEFENDANT owns, operates, or otherwise manages a business that
24 provides services, including but not limited to, aircraft refueling services to the United
25 States military and/or aircraft industry. Based on information and belief,
26 DEFENDANT owns, operates or otherwise manages multiple locations/facilities in
27 California, including but not limited to, facilities located in San Diego, California,
28 and facilities located on Edwards Air Force Base, in including but not limited to,

1 Rosamond, California.

2 **CLASS ALLEGATIONS**

3 6. PLAINTIFF brings this action on behalf of himself, and all others
4 similarly situated as a class action pursuant to Rule 23 of the Federal Rules of Civil
5 Procedure. The class PLAINTIFF seeks to represent are defined as follows and
6 referred to as the “Class” or “Class Members”:

7 All current and former non-exempt employees that worked
8 either directly or via a staffing agency for the
9 DEFENDANT at any location in California at any time
10 within the four years prior to the filing of the initial
11 Complaint (“Class Period”).

12 a. Numerosity. While the exact number of Class Members is unknown
13 to PLAINTIFF at this time, the Class is so numerous that the
14 individual joinder of all members is impractical under the
15 circumstances of this case. PLAINTIFF is informed and believes the
16 Class consists of at least 100 individuals.

17 b. Common Questions of Law and Fact. This lawsuit is suitable for
18 class treatment because common questions of law and fact
19 predominate over individual issues. Common questions include, but
20 are not limited to, the following: (1) whether DEFENDANT
21 understated hours worked and failed to pay all amounts due to
22 PLAINTIFF and the Class Members for wages earned, including
23 minimum wages, under California law; (2) whether DEFENDANT
24 provided PLAINTIFF and Class Members with accurate, itemized
25 wage statements in compliance with California law, displaying,
26 including but not limited to, the total hours worked during the pay
27 period; (3) whether DEFENDANT failed to reimburse PLAINTIFF
28 and the Class Members for all business expenses; and (4) whether

1 DEFENDANT violated California Business and Professions Code
2 sections 17200, *et seq.*

3 c. Ascertainable Class. The proposed Class is ascertainable as
4 members can be identified and located using information in
5 DEFENDANT'S business, payroll and personnel records.

6 d. Typicality. PLAINTIFF's claims are typical of the claims of the
7 Class Members. PLAINTIFF suffered a similar injury as members
8 of the Class as a result of DEFENDANT'S common practices
9 regarding, *inter-alia*, failure to calculate and pay all owed minimum
10 wages, failure to provide accurate wage statements, and failure to
11 reimburse business expenses.

12 e. Adequacy. PLAINTIFF will fairly and adequately protect the
13 interests of the Class Members. PLAINTIFF has no interests adverse
14 to the interests of the other Class Members. Counsel who represent
15 PLAINTIFF are competent and experienced in litigating similar
16 class action cases and are California lawyers in good standing.
17 Counsel for PLAINTIFF have the experience and resources to
18 vigorously prosecute this case.

19 f. A class action may be maintained pursuant to Rule 23(b)(1) because
20 prosecuting separate actions by individual class members would
21 create a risk of either: (A) inconsistent or varying adjudications with
22 respect to individual class members that would establish
23 incompatible standards of conduct for the party opposing the class;
24 or (b) adjudications with respect to individual class members that, as
25 a practical matter, would be dispositive of the interests of the other
26 members not parties to the individual adjudications or would
27 substantially impair or impede their ability to protect their interests.

28 g. A class action may be maintained pursuant to Rule 23(b)(2) because

1 Defendant has acted or refused to act on grounds that apply generally
2 to the class, so that final injunctive relief or corresponding
3 declaratory relief is appropriate respecting the class as a whole.

4 h. A class action may be maintained pursuant to Rule 23(b)(3) because
5 questions of law or fact common to class members predominate over
6 any questions affecting only individual members, and a class action
7 is superior to other available methods for fairly and efficiently
8 adjudicating the controversy.

9 i. Superiority. A class action is superior to other available means for
10 the fair and efficient adjudication of this controversy since individual
11 joinder of all members of the class is impractical. Class action
12 treatment will permit a large number of similarly situated persons to
13 prosecute their common claims in a single forum simultaneously,
14 efficiently, and without the unnecessary duplication of effort and
15 expense that numerous individual actions would engender.
16 Furthermore, as the damages suffered by each individual member of
17 the Class may be relatively small, the expenses and burden of
18 individual litigation would make it difficult or impossible for
19 individual members of the Class to redress the wrongs done to them,
20 while an important public interest will be served by addressing the
21 matter as a class action. The cost to the court system of adjudication
22 of such individualized litigation would be substantial. Individualized
23 litigation would also present the potential for inconsistent or
24 contradictory judgments. Finally, the alternative of filing a claim
25 with the California Labor Commissioner is not superior, given the
26 lack of discovery in such proceedings, the fact that there are fewer
27 available remedies, and the losing party has the right to a trial de
28 novo in the Superior Court.

FACTUAL AND LEGAL ALLEGATIONS

7. During the relevant period, PLAINTIFF, and each of the Class Members and Aggrieved Employees worked for DEFENDANT in the State of California. At all times referenced herein, DEFENDANT exercised control over PLAINTIFF, the Class Members, and Aggrieved Employees and suffered and/or permitted them to work.

8. PLAINTIFF is employed by DEFENDANT as a non-exempt employee. PLAINTIFF worked for DEFENDANT as a refueler, driver, fuel distribution systems operator and/or similar title(s) from in or around April 2019 through the present. DEFENDANT assigned PLAINTIFF to work at Edwards Air Force Base in Rosamond, California. PLAINTIFF's job duties included but were not limited to, refueling airplanes as well as performing maintenance inspections on the fuel trucks and reporting those findings to the mechanics, among other job duties. PLAINTIFF regularly worked at least eight (8) hours to twelve (12) hours per day, at least five (5) days per week.

9. At all relevant times, PLAINTIFF was a non-exempt employee that was paid on an hourly basis for time counted by DEFENDANT as hours worked.

10. **Unpaid Minimum.** DEFENDANT failed to compensate PLAINTIFF, the Class Members, and Aggrieved Employees for all hours worked, resulting in the underpayment of minimum. DEFENDANT failed to compensate PLAINTIFF, the Class Members, and Aggrieved Employees for all hours worked by virtue of, DEFENDANT'S automatic deduction and time rounding policies, and failure to relieve employees of all duties/employer control during unpaid meal periods, as explained below.

11. Based on information and belief, DEFENDANT implemented a policy and/or practice of rounding meal period start and end times and/or automatically deducting at least thirty minutes per shift for meal periods, despite having actual and/or constructive knowledge that PLAINTIFF, the Class Members, and Aggrieved

1 Employees were subject to DEFENDANT'S control during unpaid meal periods,
2 depriving PLAINTIFF, the Class Members, and Aggrieved Employees of all wages
3 owed.

4 12. Based on information and belief, Class members and Aggrieved
5 Employees were not paid for all hours worked due to DEFENDANT'S policy and/or
6 practice of requiring PLAINTIFF, the Class Members, and Aggrieved Employees to
7 work during unpaid meal periods. For example, on most shifts, if not every shift he
8 worked, PLAINTIFF was forced to work through his meal period and/or had his meal
9 period interrupted/cut short because he had to respond to work-related
10 communications from his dispatcher, was instructed to return to work to refuel planes,
11 perform maintenance inspections, and/or complete other work tasks.

12 13. Based on information and belief, Class Members and Aggrieved
13 Employees were not paid for all hours worked due to DEFENDANT'S policy and/or
14 practice of rounding time entries or paying according to scheduled hours worked
15 instead of actual time worked, and/or mandated off-the clock work policies and/or
16 practices. For example, DEFENDANT'S issued wage statements and/or pay records
17 evidence rounding to at least the nearest quarter, half and/or whole hour. For instance,
18 DEFENDANT'S issued wage statement and/or pay record for PLAINTIFF for pay
19 period beginning on 10/1/22 and ending on 10/14/22 shows exactly 64.00 regular
20 hours worked and exactly 1.25 overtime hours worked; DEFENDANT'S issued wage
21 statement and/or pay record for PLAINTIFF for pay period beginning 10/15/22 and
22 ending 10/28/22 shows exactly 80.00 hours worked; DEFENDANT'S issued wage
23 statement and/or pay record for PLAINTIFF for pay period beginning 10/29/22 and
24 ending 11/11/22 shows precisely 64.00 regular hours worked and precisely 9.25
25 overtime hours worked; similarly, DEFENDANT'S issued wage statement and/or pay
26 record for PLAINTIFF for pay period beginning 11/12/22 and ending 11/25/22 shows
27 exactly 56.00 regular hours worked and exactly 2.00 overtime hours worked. Based
28 on information and belief, DEFENDANT rounded to at least the nearest quarter, half

1 and/or whole hour, PLAINTIFF, other Class Members', and other Aggrieved
2 Employees' total hours worked during most if not all pay periods, resulting in the
3 consistent underpayment of wages owed to PLAINTIFF, other Class Members, and
4 other Aggrieved Employees.

5 14. Moreover, DEFENDANT'S "Timecard Report" shows DEFENDANT
6 shaved time off of PLAINTIFF's reported hours worked, resulting in the failure to
7 compensate PLAINTIFF for all hours worked and the underpayment of wages owed
8 to PLAINTIFF. For example, DEFENDANT'S timecard report for PLAINTIFF for
9 2/7/22 shows a "Time In" of 4:57 AM and an "Out" time of 2:32 PM which equates
10 to nine (9) hours and thirty-five minutes, yet, DEFENDANT'S "Hours" for that day
11 list a mere 9:00 hours worked, thereby depriving PLAINTIFF of at least thirty-five
12 minutes of compensable worktime on that day, resulting in the underpayment of
13 wages owed to PLAINTIFF. Similarly, DEFENDANT'S timecard report for
14 PLAINTIFF for 3/2/22 shows a "Time In" of 3:59 AM and an "Out" time of 1:35 PM,
15 yet DEFENDANT "Hours" for that day list a mere 9.00 hours worked, thereby
16 depriving PLAINTIFF of at least thirty-six minutes of compensable worktime on that
17 day, resulting in the underpayment of wages owed to PLAINTIFF. In fact,
18 DEFENDANT'S time records for PLAINTIFF for including but not limited to the
19 following dates depict at least five (5) minutes shaved from PLAINTIFF's reported
20 worktime: January 5, 2022, January 7, 2022, January 13, 200, January 25, 2022,
21 January 27, 2022, February 1, 2022, February 7, 2022. February 9, 2022, February
22 15, 2022, March 2, 2022, March 7, 2022, March 9, 2022, March 10, 2022, and March
23 11, 2022. As such, DEFENDANT engaged in systemic time record manipulation to
24 shave time off of PLAINTIFF's workdays, which resulted in the significant
25 underpayment of minimum wages owed to PLAINTIFF. Based on information and
26 belief, DEFENDANT'S time records for other Class Members and Aggrieved
27 Employees also evidence systemic time-record manipulation and/or rounding
28 resulting in the underpayment of minimum wages owed to Class Members and

1 Aggrieved Employees.

2 15. Moreover, based on information and belief, at times, DEFENDANT’S
3 electronic employee time-keeping system / app malfunctioned such that Class
4 Members and Aggrieved Employees were required to either reinitiate and/or
5 otherwise troubleshoot the system / app prior to being able to clock in and/or were
6 unable to clock in at all for the start of their shifts, resulting in off-the-clock work and
7 the underpayment of wages owed to Class Members and Aggrieved Employees.
8 Based on information and belief, Class Members and other Aggrieved Employees
9 experienced the same issues when clocking out for shifts. This time spent under
10 DEFENDANT’S control was not recorded and not compensated and resulted in
11 unpaid minimum wages owed to Class Members and Aggrieved employees.

12 16. Based on information and belief, PLAINTIFF, other Class Members, and
13 Aggrieved Employees were required to complete other off-the-clock work tasks
14 before clocking in for the beginning of their shifts and/or after clocking out for the
15 end of their shifts and/or during meal periods, resulting in the underpayment of
16 minimum wages owed to PLAINTIFF, other Class Members, and Aggrieved
17 Employees.

18 17. For example, based on information and belief, DEFENDANT did not
19 compensate Class Members and Aggrieved Employees for time spent donning and
20 doffing personal protective equipment and/or uniforms/work clothing (e.g., gloves,
21 reflective vests, earplugs and/or protective eyewear) during meal periods, before the
22 start of a scheduled shift, and/or after completing a scheduled shift, resulting in off-
23 the-clock work and the underpayment of wages owed to Class Members and
24 Aggrieved Employees.

25 18. Based on information and belief, Class Members and Aggrieved
26 Employees were also required to complete off-the-clock work outside of scheduled
27 shifts due to work-related phone calls and/or messages they received to their phones
28 and were required to respond to, including but not limited to, communications from

1 supervisors and/or other Class Members and Aggrieved Employees regarding
2 scheduling and/or other work tasks, resulting in the underpayment of wages owed to
3 Class Members and Aggrieved Employees.

4 19. Based on information and belief, DEFENDANT failed to pay Class
5 Members and Aggrieved Employees for time they were required to spend completing
6 orientation, policy questionnaires, and/or time spent completing the onboarding
7 process including but not limited to reviewing various documents and policies
8 provided by DEFENDANT. Based on information and belief, this work time was
9 completed off-the-clock and was not compensated.

10 20. Based on further information and belief, DEFENDANT implemented a
11 time-rounding system that as applied systematically deprived PLAINTIFF, other
12 Class Members, and Aggrieved Employees of compensable time because the time-
13 rounding system implemented by DEFENDANT would almost always, if not always,
14 result in understating actual compensable work time. For example, as explained
15 above, DEFENDANT issued wage statements to PLAINTIFF that evidence rounding
16 to at least the nearest quarter, half and/or whole hour. Based on information and belief,
17 DEFENDANT rounded to at least the nearest quarter, half and/or whole hour,
18 PLAINTIFF's, other Class Members', and Aggrieved Employees' total hours worked
19 during most if not all pay periods, resulting in the consistent underpayment of wages
20 owed to PLAINTIFF, other Class Members, and Aggrieved Employees.

21 21. DEFENDANT'S failure to pay for all time worked by virtue of its time
22 rounding, auto-deduction policies and practices, and/or other off-the-clock work
23 practices and policies, resulted in the underpayment of minimum wages owed to
24 PLAINTIFF, Class Members, and Aggrieved Employees.

25 22. Based on information and belief, DEFENDANT had actual and/or
26 constructive knowledge that its time rounding policies/practices, auto-deduction
27 policies and practices, and/or other off-the-clock work resulted in the underpayment
28 of minimum wages owed to PLAINTIFF other Class Members, and other Aggrieved

1 Employees in violation of California's minimum wage laws.

2 **23. Inaccurate Wage Statements.** During the relevant period,
3 DEFENDANT failed to provide PLAINTIFF, other Class Members, and Aggrieved
4 Employees with accurate wage statements that complied with Labor Code section
5 226. As DEFENDANT failed to pay PLAINTIFF, Class Members, and Aggrieved
6 Employees for all hours worked, the wage statements DEFENDANT issued to
7 PLAINTIFF, Class Members, and Aggrieved Employees failed and continue to fail
8 to correctly set forth the gross wages earned, the total hours worked, the net wages
9 earned, and all applicable hourly rates in effect during the pay period and the
10 corresponding number of hours worked at each hourly rate by the employee.

11 **24.** DEFENDANT issued wage statements to PLAINTIFF, Class Members,
12 and Aggrieved Employees that also failed to indicate the earned gross and net wages
13 earned during the pay period, the correct applicable rates of pay for all hours worked,
14 and the total hours worked by PLAINTIFF, Class Members, and Aggrieved
15 Employees (by virtue of rounded time entries, automatic deduction for meal
16 periods/failure to relieve Class Members of all duties and employer control during
17 unpaid meal periods, payment according to scheduled hours worked rather than actual
18 hours worked, and/or other off-the-clock work policies and practices) which results
19 in a violation of Labor Code section 226(a). For example, DEFENDANT'S wage
20 statements issued to PLAINTIFF show DEFENDANT rounded PLAINTIFF's hours
21 worked to at least the nearest quarter, half and/or whole hour, thereby failing to list
22 the accurate number of hours PLAINTIFF worked on DEFENDANT'S issued wage
23 statements.

24 **25.** As a result, DEFENDANT issued wage statements to PLAINTIFF, Class
25 Members, and Aggrieved Employees that were not accurate and did not include all of
26 the statutorily required information. As such, DEFENDANT violated Labor Code
27 section 226.

28 **26. Failure to Timely Pay All Wages Upon Separation of Employment.**

1 Based on information and belief, DEFENDANT failed to timely pay PLAINTIFF,
2 Class Members, and Aggrieved Employees all wages that were due and owing upon
3 termination or resignation. Based on information and belief, DEFENDANT untimely
4 provide final wages to PLAINTIFF, Class Members, and Aggrieved Employees
5 without regard to the timing requirements of Labor Code sections 201-202.

6 27. Upon separation of employment, PLAINTIFF's, Class Members', and
7 Aggrieved Employees' final paychecks were not timely provided with all owed
8 wages, sick pay earnings, and vacation pay and/or paid time off. Moreover,
9 PLAINTIFF's and Class Members' final paychecks, once provided, did not include
10 all wages owed as they were devoid of, including but not limited to, all owed
11 minimum wages, vacation pay, and all owed sick leave and/or paid time off wages at
12 the properly accrued rates (including but not limited to, all owed vacation pay/paid
13 time off paid at the final rate including non-discretionary compensation).

14 28. These violations subject DEFENDANT to civil penalties under Labor
15 Code section 203, 210, and/or 256.

16 29. **Unreimbursed Business Expenses.** Based on information and belief,
17 DEFENDANT required PLAINTIFF, Class Members, and Aggrieved Employees to
18 incur business expenses as a direct consequence of the performance of their job duties
19 without providing reimbursement, in violation of Labor Code section 2802. Based on
20 information and belief, PLAINTIFF, Class Members, and Aggrieved Employees were
21 improperly required to provide and maintain work tools that are supposed to be the
22 responsibility of the employer.

23 30. Based on information and belief, DEFENDANT shifted the costs of
24 doing business onto Class Members and Aggrieved Employees by requiring them to
25 pay for business expenses, including but not limited to, uniforms/work
26 clothing/safety/protective equipment and/or the use of Class Members' and
27 Aggrieved Employees' personal mobile phone and data usage for work-related
28 purposes including but not limited to receiving and responding to work related

1 messages and/or phone calls.

2 31. For example, DEFENDANT required PLAINTIFF to download a time-
3 keeping application on his personal cell phone to use to clock in and out for his shifts
4 each day he worked. DEFENDANT did not reimburse PLAINTIFF at all for this use
5 of PLAINTIFF's personal mobile phone and data usage for work-related purposes.
6 Based on information and belief, PLAINTIFF, other Class Members and Aggrieved
7 Employees also received calls/messages to their personal cell phones/mobile devices
8 from supervisors and/or other Class Members and/or Aggrieved Employees regarding
9 scheduling and/or other work tasks but were not provided any reimbursement from
10 DEFENDANT for this business use of their personal devices.

11 32. Also, Class Members and Aggrieved Employees were required to
12 purchase and/or maintain uniforms/work clothing/safety/protective equipment and/or
13 tools required to carry out their assigned job duties. For example, at times,
14 PLAINTIFF had to supply his own earplugs and/or gloves he required for work, but
15 DEFENDANT provided no reimbursement for these business expenses.

16 33. Based on information and belief, Class Members and Aggrieved
17 Employees were not reimbursed for the business use of their personal vehicles,
18 including mileage, wear and tear, and gas when they were required to drive their
19 personal vehicles between and/or around DEFENDANT'S job sites/facilities and/or
20 otherwise use their personal vehicles for DEFENDANT'S business purposes.

21 34. Based on information and belief, DEFENDANT regularly failed to
22 reimburse and indemnify Class Members and Aggrieved Employees for business
23 expenses. Pursuant to California Labor Code section 2802, PLAINTIFF, Class
24 Members, and Aggrieved Employees were entitled to be reimbursed for all reasonable
25 expenses associated with carrying out DEFENDANT'S orders and/or carrying out the
26 duties assigned by DEFENDANT.

27 35. DEFENDANT'S failure to provide Class Members and Aggrieved
28 Employees with full reimbursement for all reasonable expenses associated with

1 carrying out their duties required that Class Members and Aggrieved Employees
2 subsidize and/or carry the burden of business expenses in violation of Labor Code
3 section 2802.

4 36. PLAINTIFF is informed and believes and alleges thereon that
5 DEFENDANT engaged in these same herein described unlawful practices and that
6 DEFENDANT applied these same herein described unlawful practices to all of its
7 employees that it applied to PLAINTIFF.

8 **FIRST CAUSE OF ACTION**

9 **Recovery of Unpaid Minimum Wages and Liquidated Damages**
10 **(By PLAINTIFF and the Class Members Against DEFENDANT)**

11 37. PLAINTIFF incorporates all preceding paragraphs as if fully alleged
12 herein.

13 38. Pursuant to California Labor Code sections 1194 and 1197, and the
14 Industrial Wage Commission (“IWC”) Wage Orders, an employer must pay its
15 employees for all hours worked, up to 40 hours per week or 8 hours per day, at a
16 regular rate no less than the mandated minimum wage. Payment to an employee of
17 less than the applicable minimum wage for all hours worked in a payroll period is
18 unlawful.

19 39. DEFENDANT violated California’s minimum wage laws by failing to
20 compensate PLAINTIFF and the Class Members for all hours worked by virtue of,
21 among other things, DEFENDANT’S time rounding, automatic deduction for meal
22 periods, off-the-clock/unpaid work completed during meal periods, other pre-shift,
23 post-shift and/or otherwise off-the-clock work, and/or payment according to
24 scheduled hours worked rather than actual hours worked (described above), which
25 resulted in the failure to account for all hours worked and thus the denial of minimum
26 wages.

27 40. DEFENDANT had and continue to have a policy of failing to pay
28 PLAINTIFF and Class Members for all hours worked.

1 41. Based on information and belief, DEFENDANT had actual or
2 constructive knowledge that its time-rounding policies and practices, auto-deduction
3 policies and practices for meal periods, failure to relieve employees of all duties and
4 employer control during unpaid meal periods, policy and practice of payment
5 according to scheduled work time rather than actual work time, and/or other mandated
6 off-the-clock work resulted in the underpayment of minimum wages owed to
7 PLAINTIFF and other Class Members.

8 42. Pursuant to Labor Code sections 1194 and 1194.2, PLAINTIFF and the
9 Class Members are entitled to recover all unpaid minimum wages and liquidated
10 damages thereon, plus attorney's fees and costs, in an amount to be proved at trial.

11
12 **SECOND CAUSE OF ACTION**

13 **Failure to Furnish Accurate Itemized Wage Statements**
14 **(By PLAINTIFF and the Class Members Against DEFENDANT)**

15 43. PLAINTIFF incorporates all preceding paragraphs as if fully alleged
16 herein.

17 44. Pursuant to California Labor Code § 226, subdivision (a), PLAINTIFF
18 and the Class Members were entitled to receive, semimonthly or at the time of each
19 payment of wages, an itemized wage statement accurately stating the following:

20 (1) gross wages earned, (2) total hours worked by the
21 employee, except for any employee whose compensation is
22 solely based on a salary and who is exempt from payment
23 of overtime under subdivision (a) of Section 515 or any
24 applicable order of the Industrial Welfare Commission, (3)
25 the number of piece-rate units earned and any applicable
26 piece rate if the employee is paid on a piece-rate basis, (4)
27 all deductions, provided that all deductions made on written
28 orders of the employee may be aggregated and shown as
one item, (5) net wages earned, (6) the inclusive dates of the
period for which the employee is paid, (7) the name of the
employee and his or her social security number, except that
by January 1, 2008, only the last four digits of his or her
social security number or an employee identification
number other than a social security number may be shown
on the itemized statement, (8) the name and address of the
legal entity that is the employer, and (9) all applicable
hourly rates in effect during the pay period and the

1 corresponding number of hours worked at each hourly rate
2 by the employee.

3 45. Due to Defendant's failure to pay regular and minimum wages for all
4 hours worked, and failure to pay all sick leave wages at the proper rates,
5 DEFENDANT violated California Labor Code § 226 by willfully failing to furnish
6 PLAINTIFF and other Class Members with accurate, itemized wage statements that
7 listed the gross and net wages earned and the correct applicable rates of pay for all
8 hours worked. Based on information and belief, DEFENDANT failed to incorporate
9 all forms of non-discretionary compensation earned during the pay period into the
10 regular rate of pay for purposes of calculating sick leave wages, and as such, failed to
11 display the proper rate(s) for sick leave worked by PLAINTIFF and other Class
12 Members.

13 46. As explained above, wage statements issued by DEFENDANT failed to
14 list the "total hours worked" by PLAINTIFF and Class Members (by virtue of rounded
15 time entries, automatic deduction for meal periods/failure to relieve Class Members
16 of all duties and employer control during unpaid meal periods, payment according to
17 scheduled hours worked rather than actual hours worked, and/or other off-the-clock
18 work policies and practices all described in greater detail *supra*), which results in a
19 violation of Labor Code section 226(a). Failure to list all hours worked on a wage
20 statement, gives rise to an inference of injury under Labor Code Section 226
21 (*Maldonado v. Epsilon Plastics, Inc.*, (2018) 22 Cal.App.5th 1308, 1337).

22 47. DEFENDANT'S failure to accurately list all hours worked on all wage
23 statements caused confusion to PLAINTIFF and caused and continues to cause
24 confusion to other Class Members over whether they received all wages owed to
25 them.

26 48. As a result, PLAINTIFF and other Class Members have suffered injury
27 as they could not easily determine whether they received all wages owed to them and
28 whether they were paid for all hours worked.

1 49. DEFENDANT’S knowingly and intentionally failed to provide
2 PLAINTIFF and Class Members with accurate, itemized wage statements.

3 50. As a result of DEFENDANT’S unlawful conduct, PLAINTIFF and Class
4 Members have suffered injury. The absence of accurate information on their wage
5 statements has prevented earlier challenges to DEFENDANT’S unlawful pay
6 practices, will require discovery and mathematical computations to determine the
7 amount of wages owed, and will cause difficulty and expense in attempting to
8 reconstruct time and pay records. DEFENDANT’S conduct led to the submission of
9 inaccurate information about wages and amounts deducted from wages to state and
10 federal government agencies. As a result, PLAINTIFF and Class Members are
11 required to participate in this lawsuit and create more difficulty and expense from
12 having to reconstruct time and pay records than if DEFENDANT had complied with
13 its legal obligations.

14 51. Pursuant to California Labor Code section 226(e), PLAINTIFF and
15 Class Members are entitled to recover fifty dollars per employee for the initial pay
16 period in which a Section 226 violation occurred and one hundred dollars per
17 employee per violation for each subsequent pay period, not to exceed an aggregate
18 penalty of four thousand dollars per employee.

19 52. Pursuant to California Labor Code § 226(h), PLAINTIFF and Class
20 Members are entitled to bring an action for injunctive relief to ensure
21 DEFENDANT’S compliance with California Labor Code § 226(a). Injunctive relief
22 is warranted because DEFENDANT continue to provide currently employed Class
23 Members with inaccurate wage statements in violation of California Labor Code §
24 226(a). Currently employed Class Members have no adequate legal remedy for the
25 continuing injuries that will be suffered as a result of DEFENDANT’S ongoing
26 unlawful conduct. Injunctive relief is the only remedy available for ensuring
27 DEFENDANT’S compliance with California Labor Code § 226(a).

28 53. Pursuant to California Labor Code §§ 226(e) and 226(h), PLAINTIFF

1 and Class Members are entitled to recover the full amount of penalties due under
2 Section 226(e), reasonable attorneys' fees, and costs of suit.

3
4 **THIRD CAUSE OF ACTION**

5 **Failure to Timely Pay All Wages Due Upon Separation of Employment**
6 **(By PLAINTIFF and the Class Members Against all DEFENDANT)**

7 54. PLAINTIFF incorporates all preceding paragraphs as if fully set forth
8 herein.

9 55. California Labor Code section 201(a) provides, in relevant part, that
10 "[i]f an employer discharges an employee, the wages earned and unpaid at the time
11 of discharge are due and payable immediately."

12 56. California Labor Code section 202(a) provides, in relevant part, that
13 "[i]f an employee not having a written contract for a definite period quits his or her
14 employment, his or her wages shall become due and payable not later than 72 hours
15 thereafter, unless the employee has given 72 hours previous notice of his or her
16 intention to quit, in which case the employee is entitled to his or her wages at the
17 time of quitting."

18 57. Based on information and belief, DEFENDANT failed and continues to
19 fail to timely pay final wages to PLAINTIFF and Class Members upon separation of
20 employment in violation of Labor Code section 201-202. Moreover, final paychecks
21 once provided to PLAINTIFF and Class Members do not include all wages owed as
22 they are devoid of, including but not limited to, all owed minimum wages, vacation
23 pay, and all owed sick leave and/or paid time off wages at the properly accrued
24 rates.

25 58. Under Labor Code section 203, PLAINTIFF and the Class Members
26 who are no longer employed by DEFENDANT are entitled to recover waiting time
27 penalties of up to 30 days' pay, plus attorney's fees and costs, in an amount to be
28 proved at trial.

FOURTH CAUSE OF ACTION
Failure to Reimburse Business Expenses

(By PLAINTIFF and the Class Members Against DEFENDANT)

59. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

60. California law requires employers to indemnify their employees for all necessary expenditures incurred by the employee in direct consequence of the discharge of their duties or of their obedience to the directions of the employer. *See* Cal. Lab. Code s. 2802 and all applicable Wage Orders section 9(b). Furthermore, “for purposes of [section 2802], the term ‘necessary expenditure or losses’ shall include all reasonable costs, including, but not limited to, attorneys’ fees incurred by the employee enforcing the rights granted by this section.”

61. Among other things, under California law, when employees must use their personal cellphones for work-related purposes, the employer must reimburse them for a reasonable percentage of their cell phone bills. *See Cochran v. Schwan’s Home Services, Inc.* (2014) 228 Cal.App.4th 1137, 1140. To show liability, an employee will only need to show that he or she was required to use their personal cellphone for work-related purposes and not reimbursed for the use. *Id.* 1144-1145. California law also requires employers to reimburse employees for automobile expenses incurred for the business use of personal vehicles, such as for mileage, gas, and the wear and tear on the vehicle. *See Gattuso v. Harte-Hanks Shoppers, Inc.* (2007) 42 Cal.4th 554.

62. As described above, PLAINTIFF and the Class Members were improperly required to pay for business expenses that are legally the responsibility of the employer.

63. DEFENDANT’S failure to provide PLAINTIFF and the Class Members with full reimbursement for all reasonable expenses associated with carrying out their duties required that PLAINTIFF and the Class Members subsidize and/or carry the burden of business expenses in violation of Labor Code section 2802.

1 64. As a result of DEFENDANT'S unlawful conduct, PLAINTIFF and the
2 Class Members have suffered injury in that they were not completely reimbursed as
3 mandated by California law.

4 65. Pursuant to California Labor Code section 2802, PLAINTIFF and the
5 Class Members are entitled to recover the full amount of reimbursable expenses
6 due, in addition to reasonable attorneys' fees, and costs of suit.

7
8 **FIFTH CAUSE OF ACTION**
9 **Violation of the Private Attorneys General Act of 2004**
10 **(By PLAINTIFF and the Aggrieved Employees Against DEFENDANT)**

11 66. PLAINTIFF incorporates all preceding paragraphs as if full alleged
12 herein.

13 67. PLAINTIFF brings this action under the Private Attorneys General Act
14 of 2004, Labor Code sections 2698, et seq., ("PAGA"), as a representative action on
15 behalf of the State of California and Aggrieved Employees, regarding violations of
16 the California Labor Code as set forth herein as to all Aggrieved Employees. Said
17 "Aggrieved Employees" include:

18 All current and former non-exempt employees that worked
19 either directly or via a staffing agency for DEFENDANT
20 at any location in California at any time from one year plus
21 65 days from the filing of the this First Amended
22 Complaint through the present ("PAGA Period").

23 68. PLAINTIFF is an "aggrieved employee," as that term is defined under
24 Labor Code section 2699(c), as PLAINTIFF was employed by DEFENDANT during
25 the applicable statutory limitations period and suffered one or more of the Labor Code
26 violations set forth herein. Accordingly, PLAINTIFF seeks to recover on behalf of
27 the State of California and all Aggrieved Employees, the civil penalties provided by
28 PAGA, plus reasonable attorney's fees and costs. PLAINTIFF has standing to bring a
PAGA cause of action on behalf of the State and all Aggrieved Employees, as

1 PLAINTIFF was employed by DEFENDANT and is thereby affected by one or more
2 of the alleged violations. See *Huff v. Securitas Security Services USA, Inc.* (2018) 23
3 Cal.App.5th 745, 757. A PAGA plaintiff has authority to seek penalties for all known
4 violations committed by the employer - regardless of whether Plaintiff experienced
5 all violations personally. *Id.* at 760-761.

6 **COMPLIANCE WITH PAGA'S NOTIFICATION REQUIREMENTS**

7 69. On February 13, 2023, PLAINTIFF, through counsel, gave written
8 notice by online filing with the California Labor and Workforce Development Agency
9 ("LWDA") informing it that DEFENDANT failed to comply with California's labor
10 laws with regard to the allegations alleged in this Complaint ("PAGA Notice").

11 70. The LWDA did not provide notice of its intention to investigate
12 DEFENDANT'S violations after expiration of the 65-day waiting time period, or at
13 any time. To the extent any of the alleged violations were curable, DEFENDANT
14 failed to cure within the time allotted by PAGA. PLAINTIFF has exhausted the
15 administrative remedies as required by Labor Code section 2699.3. Consequently,
16 PLAINTIFF's right to file the instant lawsuit has duly accrued.

17 71. PLAINTIFF seeks to recover the PAGA civil penalties through a
18 representative action permitted by PAGA and the California Supreme Court in *Arias*
19 *v. Superior Court* (2009) 46 Cal.4th 969. Therefore, class certification of the PAGA
20 claims is not required.

21 72. From one year prior to PLAINTIFF's filing of the required PAGA
22 notice with the LWDA, and continuing through the present, as alleged herein,
23 DEFENDANT violated California Labor Code sections, 201-203, 204, 210, 223, 226,
24 245-248.5, 558, 558.1, 1194, 1197, 1197.1, 1198, 1198.5, 1199, 2802, and all
25 applicable Wage Orders.

26 73. As set forth above, DEFENDANT has committed numerous violations
27 of the California Labor Code due to including but not limited to their failure to pay
28 all owed minimum wages, failure to provide accurate wage statements, and failure to

1 reimburse business expenses as alleged above. PAGA penalties are in addition to any
2 other relief available under the Labor Code.

3 74. Additionally, DEFENDANT has violated the following Labor Code
4 sections and provisions of the applicable Wage Order as to the Aggrieved Employees.

5 **Failure to Pay All Wages Due Upon Separation of Employment**

6 75. California Labor Code section 201(a) provides, in relevant part, that “[i]f
7 an employer discharges an employee, the wages earned and unpaid at the time of
8 discharge are due and payable immediately.”

9 76. California Labor Code section 202(a) provides, in relevant part, that “[i]f
10 an employee not having a written contract for a definite period quits his or her
11 employment, his or her wages shall become due and payable not later than 72 hours
12 thereafter, unless the employee has given 72 hours previous notice of his or her
13 intention to quit, in which case the employee is entitled to his or her wages at the time
14 of quitting.”

15 77. Based on information and belief, DEFENDANT failed and continues to
16 fail to timely pay final wages to Aggrieved Employees upon separation of
17 employment in violation of Labor Code section 201-202. Upon separation of
18 employment, Aggrieved Employees’ final paychecks were not timely provided and/or
19 were not timely provided with all owed vacation pay and/or paid time off. Moreover,
20 final paychecks once provided to Aggrieved Employees do not include all wages
21 owed as they are devoid of, including but not limited to, all owed minimum wages,
22 vacation pay, and all owed sick leave and/or paid time off wages at the properly
23 accrued rates.

24 78. Under Labor Code section 203, Aggrieved Employees who are no
25 longer employed by DEFENDANT is entitled to recover waiting time penalties of up
26 to 30 days’ pay, plus attorney’s fees and costs, in an amount to be proved at trial.

27 **Semimonthly Payment Violations**

28 79. California Labor Code section 204 requires that all earned wages must

1 be paid to employees twice during each calendar month.

2 80. Based on information and belief, DEFENDANT failed and continues to
3 fail to pay Plaintiff and other Aggrieved Employees all earned wages on a
4 semimonthly basis in compliance with Labor Code section 204 by virtue failing to
5 pay employees for all hours worked as described herein.

6 81. Under Labor Code section 210, these violations subject DEFENDANT
7 to civil penalties under Labor Code section 210. Each violation results in a separate
8 civil penalty, for each AGGRIEVED EMPLOYEE for each pay period during which
9 the statute's provisions were violated.

10 **Record Keeping Violations**

11 82. California Labor Code § 1174 requires employers to keep “accurate and
12 complete” payroll records showing, among other things, the hours worked daily by
13 all non-exempt employees. All applicable Wage Orders § 7 similarly requires
14 employers to keep time records reflecting the times during which all owed meal
15 periods were provided each day.

16 83. Due to DEFENDANT's automatic meal break deductions, failure to
17 relieve employees of all duties and employer control during meal periods, time
18 rounding and/or payment according to scheduled hours rather than actual hours
19 worked, and other off-the-clock work policies and practices described above,
20 DEFENDANT failed, and continues to fail, to keep accurate and complete records as
21 required by law, including but not limited to the following records: total daily hours
22 worked, applicable rates of pay, time records showing when PLAINTIFF and other
23 Aggrieved Employees began and ended each work period, time records of meal
24 periods, shift start times and end times, and accurate itemized wage statements.

25 84. DEFENDANT's failure to keep “accurate and complete” payroll records
26 for PLAINTIFF and other Aggrieved Employees violates Labor Code §§ 1174 , and
27 all applicable Wage Orders, section 7.

28 **Standard Conditions of Labor Violations**

85. Together, Labor Code sections 1198 and 1199 make unlawful any employment of any employee under conditions of labor prohibited by the Wage Orders, and any violation, refusal, or neglect to comply with any provision within Part 4, Chapter 1 of the Labor Code, including sections 1174, 1197, and 1198, or order or ruling of the commission. Therefore, DEFENDANT's violations with respect to record keeping provisions, business expenses, and minimum wages result in separate violations of sections 1198 and 1199, which subject DEFENDANT's to civil penalties under Labor Code sections 1197.1 and 2699.

Refusal to Make Payment

86. Labor Code section 216 declares unlawful an employer's refusal to pay wages due and payable and/or the denial of the validity of any claim to wages due. DEFENDANT violated and continue to violate this section by failing to pay PLAINTIFF and Aggrieved Employees for all hours worked at the proper wage rate. *Gould v. Maryland Sound Industries, Inc.* (1995) 31 Cal.App.4th 1137, 1154-1155. These violations subject DEFENDANT to civil penalties under Labor Code section 225.5. Each violation results in a *separate* civil penalty, for each Aggrieved Employee, for each pay period during which the statute provisions were violated.¹

Statutory Wage Violations

California Labor Code section 223 makes it unlawful for an employer to secretly pay wages lower than required by statute while purporting to pay legal wages. As described above, DEFENDANT willfully and systematically denied PLAINTIFF and Aggrieved Employees of all earned minimum wages for all hours worked which resulted in the payment of less than statutorily required wages. DEFENDANT acted with the intent to deprive them of statutory wages, including, but not limited to, minimum wages, to which they were entitled to under California law. Thus,

¹ Labor Code § 225.5 (establishing that “[i]n addition to, and entirely independent and apart from, any other penalty provided in this article, every person who unlawfully withholds wages due any employee in violation of sections 212, 216, 221, 222, or 223 shall be subject to a civil penalty...for each failure to pay each employee”) (emphasis added).

1 DEFENDANT paid PLAINTIFF and other Aggrieved Employees lower wages than
2 those they were entitled to while purporting that PLAINTIFF and other Aggrieved
3 Employees were properly paid. As a result, PLAINTIFF and other Aggrieved
4 Employees are entitled to recover penalties, attorney's fees, costs, and interest
5 thereon, pursuant to Labor Code § 2699(f)-(g).

6 **Sick Leave Violations**

7 88. DEFENDANT violated California's paid sick leave laws
8 including, Labor Code section 245-248.5 and 233-234. DEFENDANT either failed to
9 provide sick leave pay to PLAINTIFF and other Aggrieved Employees or failed to
10 properly accrue paid sick leave due to DEFENDANT'S failure to account for actual
11 hours worked (as a result of the rounding/automatic deduction policies and practices
12 for meal periods and/or shift start and end times/other required off-the-clock work
13 including but not limited to work completed during unpaid meal periods) and by
14 failing to incorporate multiple rates of pay and/or all non-discretionary remuneration,
15 including but not limited to, non-discretionary bonuses, shift differential pay,
16 commission and/or piece-rate compensation and/or other non-discretionary
17 compensation into the sick leave pay rate calculation.

18 89. DEFENDANT further failed to give PLAINTIFF and other Aggrieved
19 Employees notice of their paid sick leave rights – or thereby putting their entitlement
20 to sick leave in a Labor Code section 2810.5 notice. In addition, DEFENDANT failed
21 to maintain accurate records of used sick leave and the balance of paid sick leave left
22 to the employees, which affected PLAINTIFF and Aggrieved Employees' intelligent
23 exercise of their paid sick leave.

24 90. But for this failure, PLAINTIFF and other Aggrieved Employees would
25 have used their paid sick leave at least prior to their respective separations, for as on
26 several occasions thereafter, he or she would have been entitled to use the banked sick
27 leave and earn appropriate compensation.

28 91. In violation of Labor Code section 247.5, DEFENDANT failed to

1 maintain records documenting the hours worked and paid sick days accrued and used
2 by PLAINTIFF and all Aggrieved Employees, permitting the presumption that
3 PLAINTIFF and all Aggrieved Employees were entitled to the maximum number of
4 hours accruable.

5 92. Upon information and belief, DEFENDANT failed and continues to fail
6 to comply with Labor Code section 246, by failing to provide PLAINTIFF and all
7 Aggrieved Employees with a Labor Code section 226 wage statement, or separate
8 writing containing the amount of paid sick leave available, or paid time off leave an
9 employer provides in lieu of sick leave, at the time it pays wages.

10 93. These practices violated California's sick leave laws, Labor Code section
11 245, *et seq.*

12 94. On information and belief, PLAINTIFF alleges that all of these practices
13 were experienced and continue to be experienced by other Aggrieved Employees.

14 95. Accordingly, PLAINTIFF seeks all appropriate relief under the PAGA,
15 the aforementioned code provisions including but not limited to Labor Code section
16 233 and 234, and seeks injunctive relief, attorney's fees, declaratory relief, and
17 penalties as permitted by law.

18 **Failure to Pay Vested Vacation/Paid Time Off**

19 96. California Labor Code section 227.3 provides that when an employer
20 policy provides for paid vacations and/or paid time off, and an employee is terminated
21 without having taken off his, her, or their vested vacation time, all vested vacation
22 shall be paid to the employee as wages at the employee's final rate in accordance with
23 such contract of employment or employer policy respecting eligibility or time served
24 and that there shall be no forfeiture of vested vacation time or paid time off upon
25 termination.

26 97. Based on information and belief, DEFENDANT had and continue to
27 have a uniform policy and practice of failing to allow Aggrieved Employees to use
28 their earned vacation/paid time off during their employment and failing to pay all

1 vested, accrued paid time off to Aggrieved Employees upon separation of
2 employment, in violation of California law, including but not limited to, Labor Code
3 section 227.3.

4 98. On information and belief, PLAINTIFF alleges that all of these practices
5 were experienced and continue to be experienced by other Aggrieved Employees.

6 99. Under the provisions of PAGA and the above-mentioned Labor Code
7 sections, including but not limited to Labor Code sections 201-203, 204, 210, 223,
8 225.5, 226, 245-248.6, 256, 558, 558.1, 1194, 1197, 1197.1, 1198, 1199, 2699,
9 2699.3, 2802, DEFENDANT is liable for the following penalties:

10 a. All statutorily-specified penalties recoverable under PAGA as
11 enumerated in the relevant California Labor Code provisions listed herein only if
12 permitted by the PAGA statute, pursuant to Labor Code section 2699(a); and

13 b. Default PAGA penalties for any violation of the enumerated list of Labor
14 Code violations without a civil penalty recoverable under the PAGA, all in the default
15 amounts provided by Labor Code section 2699(f).

16 **SIXTH CAUSE OF ACTION**

17 **Unfair Competition**

18 **(By PLAINTIFF and the Class Members Against all DEFENDANT)**

19 100. PLAINTIFF incorporates all preceding paragraphs as if fully alleged
20 herein.

21 101. DEFENDANT'S unlawful conduct alleged herein constitutes unfair
22 competition within the meaning of California Business and Professions Code section
23 17200 *et seq.* This unfair conduct includes all unlawful conduct alleged herein,
24 including but not limited to: DEFENDANT'S failure to pay minimum wages by virtue
25 of its illegal policies and practices; DEFENDANT'S failure to furnish complete and
26 accurate itemized wage statements; DEFENDANT'S failure to reimburse business
27 expenses; and DEFENDANT'S failure to provide paid sick leave (or paid time off in
28 lieu thereof) at the properly accrued rates (due to, including but not limited to,

1 DEFENDANT’S failure to incorporate all non-discretionary compensation into the
2 sick pay calculation and failure to base the accrued sick leave on the correct number
3 of hours worked as a result of DEFENDANT’S time-rounding/auto deduction policies
4 and practices, payment according to scheduled hours worked and/or other off-the-
5 clock work policies and practices).

6 102. Due to DEFENDANT’S unfair and unlawful business practices in
7 violation of the California Labor Code, DEFENDANT has gained a competitive
8 advantage over other comparable companies doing business in the State of California
9 that comply with their obligations to properly accrue and pay sick time benefits, to
10 provide complete and accurate itemized wage statements, to reimburse employees for
11 all business expenses, to pay all owed minimum wages.

12 103. As a result of DEFENDANT’S unfair competition as alleged herein,
13 PLAINTIFF and Class Members have suffered injury in fact and lost money or
14 property, as described in more detail above. Pursuant to California Business and
15 Professions Code section 17200, *et seq.*, PLAINTIFF and Class Members are entitled
16 to restitution of all wages and other monies rightfully belonging to them that
17 DEFENDANT failed to pay and wrongfully retained by means of their unlawful and
18 unfair business practices.

19 104. PLAINTIFF also seeks an injunction against DEFENDANT on behalf of
20 the Class Members, enjoining DEFENDANT and any and all persons acting in
21 concert with them from engaging in each of the unlawful practices and policies set
22 forth herein.

23 105. PLAINTIFF also seeks an award of attorney’s fees pursuant to Code Civ.
24 Proc Section 1021.5 and as permitted by law, and an award for costs reasonably
25 incurred, as permitted by law.

26 **PRAYER FOR RELIEF**

27 WHEREFORE, PLAINTIFF prays for relief and judgment, on behalf of
28 PLAINTIFF and Class Members as follows:

1. For an order that the action be certified as a class action;
2. For an order that PLAINTIFF be appointed as class representative;
3. For an order that counsel for PLAINTIFF be appointed as class counsel;
4. For compensatory damages according to proof;
5. For liquidated damages according to proof;
6. For penalties according to proof;
7. For an order requiring DEFENDANT to make restitution of all amounts wrongfully withheld from PLAINTIFF and the Class Members;
8. For an order finding DEFENDANT has engaged in unfair competition in violation of section 17200, *et seq.*, of the California Business and Professions Code;
9. For an order enjoining DEFENDANT from further acts of unfair competition;
10. For pre-judgment interest as permitted by law;
11. For attorney's fees and costs reasonably incurred; and
12. For such other and further relief that the Court deems just and proper.

Dated: July 19, 2023

CROSNER LEGAL, PC

By:



Zachary M. Crosner, Esq.
Jamie Serb, Esq.
Brandon Brouillette, Esq.
Attorneys for Plaintiff

DEMAND FOR JURY TRIAL

PLAINTIFF demands a trial by jury on all claims so triable.

Dated: July 19, 2023

CROSNER LEGAL, PC

By:

A handwritten signature in blue ink, appearing to read "Zachary M. Crosner", is written over a horizontal line.

Zachary M. Crosner, Esq.

Jamie Serb, Esq.

Brandon Brouillette, Esq.

Attorneys for Plaintiff